# IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**RSA No. 423 of 2006.**

**Decided on : 9.10.2006.**

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**Smt. Kalasho Devi & ors.** **…..Appellants.**

***VERSUS***

**Khiali Ram** **…..Respondent.**

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***Coram***

**The Hon'ble Mr. Justice Surjit Singh, Judge.**

***Whether approved for reporting?***[1]

**For the Appellants : Mr. S.D.Gill, Advocate.**

**For the Respondent : Mr. Dalip Kumar Sharma, Advocate.**

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**Surjit Singh, Judge (Oral)**

Heard and gone through the record.

***2.*** Appellant- plaintiff filed a suit for declaration that he was owner in possession of 5 Marlas land, bearing khasra No. 227, situate in a village of Hamirpur District and that Sukhi Devi, to whom this land had allegedly been allotted, never came in possession of that land and that in fact the appellant- plaintiff had been in possession of the land prior to its allotment in favour of Sukhi Devi and continued to be in possession even after such allotment and his possession being open, hostile, uninterrupted and continuous, he had acquired title by prescription. He also challenged the will made by Sukhi Devi in favour of respondent Khiali Ram.

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***Whether the reporters of the local papers may be allowed to see the Judgment?***

***3.*** Suit was contested. Respondent Khiali Ram denied that the suit land was in possession of the plaintiff and alleged that Smt. Sukhi Devi had executed a will in his favour and on the strength of that will, he had become the owner of the suit land and possession was with him. He also claimed that mutation had also been attested in his favour after the death of Sukhi Devi.

***4.*** The two courts below have given concurrent finding that Smt. Sukhi Devi was owner in possession of the suit land and that she executed a valid will in favour of the respondent- defendant and on the basis of that will he has come in possession of the suit land as owner. The findings of the two courts below are based on the correct reading and appreciation of evidence. No fault in the appreciation of the evidence by the two courts below has been pointed out. Thus no substantial question of law arises. As a result, the appeal is dismissed.

**CMP Nos. 794, 795 & 796 of 2006.**

**5.** Infructuous.

**October 9, 2006.** **( Surjit Singh )**
**(Hem)** **Judge.**